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[New Hampshire Code of Administrative Rules](#)
[Env-Ws 1300](#)

CHAPTER Env-Ws 1300 EXOTIC AQUATIC WEED CONTROL

Statutory Authority: RSA 487:24, VII-a, VII-b, and VII-c

PART Env-Ws 1301 PURPOSE AND APPLICABILITY

Env-Ws 1301.01 Purpose. The purpose of these rules is to implement RSA 487:16-a, which prohibits the sale, distribution, importation, purchase, propagation, transportation, or introduction into the state of exotic aquatic weeds, and RSA 487:17, II (d) relative to the designation of control areas for exotic aquatic weeds.

Source. #6852 eff 9-5-98

Env-Ws 1301.02 Applicability. These rules shall apply to people who live, work, and recreate on the lakes of New Hampshire, as well as people who own stores that sell exotic aquatic weeds.

Source. #6852 eff 9-5-98

PART Env-Ws 1302 CHAPTER DEFINITIONS

Env-Ws 1302.01 "Bottom barrier" means a semi-permeable, fine mesh screening, laid over an area of sediments in a lake to shade and physically inhibit plant growth.

Source. #6852 eff 9-5-98

Env-Ws 1302.02 "Commissioner" means the commissioner of the department of environmental services.

Source. #6852 eff 9-5-98

Env-Ws 1302.03 "Cultivar" means a cultivated species of plant for which there is no wild form.

Source. #6852 eff 9-5-98

Env-Ws 1302.04 "Department" means the department of environmental services.

Source. #6852 eff 9-5-98

Env-Ws 1302.05 "Exotic aquatic weeds" means "exotic aquatic weeds" as defined by RSA 487:16, II, namely "only those species of vascular aquatic plants which were not part of New Hampshire's native aquatic flora before 1950. *Cabomba caroliniana* and *Myriophyllum heterophyllum* are examples of exotic aquatic weeds."

Source. #6852 eff 9-5-98

Env-Ws 1302.06 "Herbaria" means collections of dried, pressed plants for the purposes of education and scientific study.

Source. #6852 eff 9-5-98

Env-Ws 1302.07 "Infested waters" means water and water bodies having populations of prohibited exotic aquatic weeds such as milfoil or fanwort.

Source. #6852 eff 9-5-98

Env-Ws 1302.08 "Limited infestations" means an infestation of 5 acres or less.

Source. #6852 eff 9-5-98

Env-Ws 1302.09 "Maintenance project" means the short-term control of an infestation of exotic aquatic weeds by treating the weeds directly rather than treating the cause of the infestation.

Source. #6852 eff 9-5-98

Env-Ws 1302.10 "New infestation" means an infestation that was not previously reported to the department.

Source. #6852 eff 9-5-98

Env-Ws 1302.11 "Restricted use area" means a marked area or marked areas of a water body where infestations of exotic aquatic weeds have been delineated in accordance with Env-Ws 1304, which is closed to entry by boaters, anglers, or other water users and their equipment, except in emergency situations where property or human life is endangered.

Source. #6852 eff 9-5-98

Env-Ws 1302.12 "Surface waters of the state" means "surface waters of the state" as defined by RSA 485-A:2, XIV, namely, "streams, lakes, ponds and tidal waters within the jurisdiction of the state, including all streams, lakes or ponds bordering on the state, marshes, water courses and other bodies of water, natural or artificial."

Source. #6852 eff 9-5-98

PART Env-Ws 1303 PROHIBITED EXOTIC AQUATIC WEEDS AND EXEMPTIONS

Env-Ws 1303.01 Prohibitions and Designation. The following exotic aquatic weeds, identified in "A Manual of Aquatic Plants" by Norman C. Fassett and "Aquatic and Wetland Plants of Northeastern North America" by Garrett Crow and C. Barre Hellquist, both copyrighted by The University of Wisconsin Press, shall be prohibited from being offered for sale, distributed, sold, imported, purchased, propagated, transported or introduced in the state, pursuant to RSA 487:16-a, because they pose a substantial threat to native species in the state:

- (a) *Myriophyllum heterophyllum*, commonly referred to as variable milfoil;
- (b) *Myriophyllum spicatum*, commonly referred to as Eurasian milfoil;
- (c) *Cabomba caroliniana*, commonly referred to as fanwort;
- (d) *Hydrilla verticillata*;
- (e) *Trapa natans*, commonly referred to as water chestnut;
- (f) *Myriophyllum aquaticum*, commonly referred to as parrot-feather;
- (g) *Potamogeton crispus*, commonly referred to as curly leaf pondweed;
- (h) *Lythrum salicaria*, *L. virgatum*, *L. alatum* and their cultivars, commonly referred to as purple loosestrife;
- (i) *Phragmites australis* or *P. communis*, commonly referred to as common reed;
- (j) *Egeria densa*, commonly referred to as Brazilian elodea;
- (k) *Hydrocharis morsus-ranae*, commonly referred to as frogbit;

- (l) *Butomus umbellatus*, commonly referred to as flowering rush;
- (m) *Najas minor*, commonly referred to as European naiad; and
- (n) *Nymphoides peltata*, commonly referred to as yellow floating heart.

Source. #6852 eff 9-5-98

Env-Ws 1303.02 Exemptions for Transportation. Transportation of any exotic aquatic weeds on any road or highway in the state shall be exempt from the transportation prohibition of RSA 487:16-a, if the following are true:

- (a) It is for disposal as part of a harvest control activity under the supervision of the department;
- (b) It is for the purpose of identifying a species or reporting the presence of a species, and the exotic aquatic weed is in a sealed container; or
- (c) It will be disposed of after removal from recreational watercraft and equipment, such as trailers, motors, fishing equipment, or diving gear.

Source. #6852 eff 9-5-98

Env-Ws 1303.03 Acceptable Means of Disposal.

- (a) Any exotic aquatic weed shall be immediately disposed of away from water or moist areas where it might survive.
- (b) Acceptable means of disposal shall include but not be limited to:
 - (1) Burning;
 - (2) Land filling;
 - (3) Disposing in a trash container;
 - (4) Desiccating; and
 - (5) Composting, if applied away from surface waters.

Source. #6852 eff 9-5-98

Env-Ws 1303.04 Exemptions for Preserved Specimens. Pursuant to RSA 487:16-a, the prohibitions listed in Env-Ws 1301.01 shall not apply to exotic aquatic weeds in the form of herbaria or other preserved specimens.

Source. #6852 eff 9-5-98

Env-Ws 1303.05 Exemptions for Research or Education. Pursuant to RSA 487:16-a, the prohibitions listed in Env-Ws 1303.01 shall not apply to exotic aquatic weeds being used in a controlled environment, such as in a laboratory for research or for educational display.

Source. #6852 eff 9-5-98

Env-Ws 1303.06 Exemptions for Field Experimentation. Pursuant to 487:16-a, the prohibitions listed in Env-Ws 1303.01 shall not apply to remedial actions in the field for the purpose of finding control mechanisms involving exotic aquatic weeds, which, based on the proposed use and safeguards for containment, will minimize the risk of harm to natural resources or their use in the state.

Source. #6852 eff 9-5-98

Env-Ws 1303.07 Notification Requirement.

(a) Any person other than an employee of the department acting in his or her official capacity, who participates in any of the above exempted activities, Env-Ws 1303.02 and Env-Ws 1303.04 through Env-Ws 1303.06, shall notify the department prior to or within 24 hours after performing such activity, by calling 271-3503.

(b) Notification is not required for disposal after removal from recreational equipment pursuant to Env-Ws 1303.02(c) and Env-Ws 1303.03.

Source. #6852 eff 9-5-98

PART Env-Ws 1304 IDENTIFICATION, NOTICE, DE-LISTING AND MARKING OF RESTRICTED USE AREAS

Env-Ws 1304.01 Designation and De-listing of Restricted Use Areas.

(a) The commissioner, in consultation with the executive director of the fish and game department and the director of the safety services division of the department of safety, shall designate as a restricted use area any area that contains a limited infestation of exotic aquatic weeds. Such areas shall include new infestations, infestations in areas with the high risk of fragmentation, or areas in waterbodies with previously documented infestations, but where treatments or management practices have removed all but a small area of exotics that can be contained with the establishment of a restricted use area, until such time that other management practices can remove the remainder of the population.

(b) After designation, a restricted use area shall be in place until the area is no longer infested subject to the criteria in (a) above, or until a period of 3 years has expired since the time of designation.

(c) When an infestation has been eradicated or cannot be successfully treated or managed within the 3-year time limit, or the 3-year time limit has been reached, the commissioner, in consultation with the executive director of the fish and game department and the director of the safety services division of the department of safety shall evaluate the designated site to determine whether they will de-list the restricted use area or extend the restriction on the area.

(d) The commissioner shall issue press releases to the newspapers in the towns surrounding the water body(ies) in which a restricted use area is designated or de-listed.

Source. #6852 eff 9-5-98; amd by #7570, eff 10-6-01

Env-Ws 1304.02 Notification Protocol. The commissioner, in consultation with the executive director of the fish and game department and the director of the safety services division of the department of safety, shall notify the public when a restricted use area has been designated or de-listed and when buoys are installed or removed.

Source. #6852 eff 9-5-98

Env-Ws 1304.03 Notice of Restricted Use Areas.

- (a) The department shall post signs warning of a restricted use area in accordance with Env-Ws 1304.04.
- (b) The commissioner shall publish the names of identified water bodies which contain restricted use areas in a press release.
- (c) Notice shall include the following information:
 - (1) The town(s) in which the water body containing the restricted use area is located;
 - (2) The name of the water body containing the restricted use area;
 - (3) The specific location of the infestation within the water body;
 - (4) The type of infestation; and
 - (5) The general dimensions of the restricted use area.

[Source.](#) #6852 eff 9-5-98

Env-Ws 1304.04 Delineation and Markers for Restricted Use Areas. The department or its designee shall mark restricted use areas using buoys and signs as specified below:

- (a) A minimum of 3 buoys and/or signs shall be used to delineate a restricted use area;
- (b) The buoys shall be placed not more than 300 feet apart;
- (c) The buoys shall be connected by rope with small floats every 8 feet;
- (d) At least 2 buoys and/or signs shall be placed at or near the shoreline to delineate a restricted use area if the area is adjacent to the shore; and
- (e) Buoys shall be removed at the end of each growing season, unless removed sooner pursuant to the de-listing process.

[Source.](#) #6852 eff 9-5-98

Env-Ws 1304.05 Type of Warning Buoy. The buoy which warns of a restricted use area shall:

- (a) Be a standard state danger buoy;
- (b) Be white and international orange in color;
- (c) Have an orange diamond symbol with an X through it; and
- (d) Read as follows: "Restricted Use Area, pursuant to RSA 487. NH Dept. of Environmental Services 603-271-3503."

[Source.](#) #6852 eff 9-5-98

Env-Ws 1304.06 Marking of Restricted Use Areas by Municipalities.

- (a) Any municipality with a similar method of marking restricted use areas within municipal water supplies may request the department to approve the method, in lieu of Env-Ws 1304.04, by submitting a request in writing to the

department.

(b) The department shall grant authorization to a municipality to mark municipal water supplies if the method of marking to be used by the municipality is equivalent or more stringent than the method identified in Env-Ws 1304.04.

[Source.](#) #6852 eff 9-5-98

Env-Ws 1304.07 Navigation Prohibition. Subject to Env-Ws 1304.08, no person or equipment, including boaters, anglers, or other water users, or private or commercial watercraft of any type, shall enter a restricted use area except in emergency situations where property or human life is endangered.

[Source.](#) #6852 eff 9-5-98

Env-Ws 1304.08 Lake Access. If an infestation occurs at an access point to a marina, private residence, or public or private access ramp, a bottom barrier shall be put over the infestation to keep it from spreading and the access point shall be left open.

[Source.](#) #6852 eff 9-5-98

Env-Ws 1304.09 Signs. The department shall post signs at marinas or public or private access sites notifying the public of restricted use areas and the signs shall:

- (a) Be at least 8 ½ by 11 inches in size; and
- (b) Read as follows: "This buoy marks a RESTRICTED USE AREA on this water body, designated pursuant to RSA 487:17. Please help prevent the spread of exotic aquatic plants by staying out of these areas."

[Source.](#) #6852 eff 9-5-98

PART Env-Ws 1305 MAINTENANCE AND REMOVAL OF BUOYS

Env-Ws 1305.01 Responsible Agency. The department shall maintain, inspect and remove buoys as follows:

- (a) The department shall install buoys during weekday office hours; and
- (b) The department shall remove the buoys at the end of each growing season, unless removed sooner pursuant to the de-listing process.

[Source.](#) #6852 eff 9-5-98

Appendix

Provision of the Proposed Rule	Specific State Statute which the Rule is Intended to Implement
Env-Ws 1304.01(a)	RSA 487:17, II(d)